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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,201	02/08/2002	Paul Amaat France	7808	8072

27752 7590 07/22/2004

THE PROCTER & GAMBLE COMPANY
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EXAMINER	
SPERTY, ARDEN B	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/049,201	FRANCE ET AL.	
	Examiner	Art Unit	
	Arden B. Sperty	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 May 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

FINAL ACTION

1. Applicant's remarks submitted 5/24/04 have been considered, but are not persuasive. The rejection stated in the previous office action remains and is repeated herein for convenience.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,792,412 to Lee in view of USPN 5,801,238 to Tanaka.

Lee teaches durably wettable webs with apertures (corresponding to the claimed pervious web of the claimed invention), (see abstract). Lee describes at least one surface of the durably wettable web with a contact angle of at least 30 degrees, (see abstract). Lee describes the use of corona discharge treatment at any point in the manufacturing process subsequent to polymer surfactant extrusion to form the continuous, unapertured web. The corona discharge treatment may be applied when desired, (column 12, lines 48-58). Lee describes absorbent articles using the durable apetured wettable web, (column 13, lines 13-31). Lee describes the various uses for the absorbent articles, i.e. diapers, incontinent pads, training pants and others, (column 13, lines 35-48). Lee describes the structure of the absorbent article with a liquid pervious topsheet, liquid impervious backsheet, and an absorbent core positioned between the topsheet and the backsheet, (column 14, lines 17-29). Lee describes the core, back sheet and the topsheet, (column 15, lines 16-47; column 16,

lines 1-59; column 17, lines 15-60; column 18, lines 20-43). Lee is silent with respect to the specific hydrophilic coating applied to the web and the process.

Tanaka teaches water absorbents, useful in sanitary napkin, diaper liner, wipe and wound dressing applications for their high liquid absorbency capabilities. The absorbents (specifically col 4, lines 45-54 for diacrylate) are polymerized by irradiating an electron beam (col 5, lines 52-53). It would have been obvious to one of ordinary skill in the art to use a coating of the water absorbents taught by Tanaka in the invention of Lee because of their high absorbency properties, which are known as valuable in the art.

Response to Arguments

4. In response to applicant's argument that there is no motivation to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art (emphasis added). See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as was stated in the previous office action, the high absorbency properties of the Tanaka reference are known as valuable in the art of absorbent products. This knowledge is the motivation to combine references that are both drawn to absorbent structures used in sanitary napkins and diapers.

5. Applicant further states that Tanaka teaches the absorbent resin "used inside an absorbent article, specifically, in the absorbent core," yet no citation is included for the location of such a statement in the Tanaka reference. The examiner has reviewed the reference and was unable to find such a statement. Therefore, the argument is not commensurate.

6. Applicant's argument that the present invention relates to the modification of the topsheet of an absorbent article is not commensurate in scope with claims 1-20 or 30-40. The ultimate intended use implied by claims 21-29 does not provide a patentable distinction over the prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arden B. Sperty whose telephone number is (571)272-1543. The examiner can normally be reached on M-Th, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571)272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arden B. Sperty
Examiner
Art Unit 1771

July 15, 2004

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700